



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,843	08/09/2006	Shozo Yokoyama	293196US3XPCT	1152
22850	7590	08/25/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3654	
			NOTIFICATION DATE	DELIVERY MODE
			08/25/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No. 10/588,843	Applicant(s) YOKOYAMA ET AL.	
	Examiner Thomas J. Brahan	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/13/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3654

1. Claims 9-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on June 6, 2008. The traversal is on the grounds that a lack of unity of invention box was not checked on an *attached* report. This is not found persuasive because it is unclear as to what report applicant is discussing. No such report is part of the file papers submitted with the response of June 6, 2008. No such earlier report has been located within the file. The application papers do contain one document filed August 9, 2007 which states that this application claims priority from four different Japanese applications, but no mention is made whether these four applications are drawn to different inventions. As the current claims in this application are restrictable under U.S. patent examination procedures, and this is a U.S. application, it is unclear as to how the earlier papers would be used to have the restriction withdrawn. The restriction could be reconsidered upon the filing of certified translations of the four Japanese documents, the PCT publications and all other pertinent WIPO documents. However as this application is drawn to four Japanese filings, it appears as though more than one invention has been involved throughout all of the prosecution. The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to how the applicant is distinguishing the claimed crane structure from every other crane. The invention is a crane, as set forth in the first line of claim 1. Then line 7 of the claim states that this one inventive crane is one of a set broken into various classes. How does this idea define any structure for the **one crane** which applicant is attempting to patent? The structure which differentiates the claimed one crane must be recited in a manner that can be viewed with respect to the one crane. The claims can not recite that the "one crane" under consideration has a twin or near twin some where else.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3654

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

6. Claims 1-5, as best understood, are rejected under 35 U.S.C. § 102(a) as being anticipated by Kenichiro et al. Kenichiro et al discloses a crane comprising a lower traveling body (3) and an upper rotating body (11) rotatably mounted on the lower traveling body, the upper rotating body including a rotating frame (MF) and lifting equipment mounted on the rotating frame, the lifting equipment including a boom (12) and a plurality of types of winches,

wherein many models having different lifting capacities are divided into a plurality of classes, each class including a plurality of models, the models included in each class share a common rotating frame, the common rotating frame being based on the model having the largest lifting capacity in each class, and the rotating frame included in the upper rotating body is such a common rotating frame.

The rotating frame (MF) includes rotating-frame-side winch mounting portions for mounting the winches on the rotating frame, each type of winch is provided with a winch-side mounting portion, as recited in claim 2. Left and right deck frames are shown in the drawings, as recited in claim 3, with equipment mounted on the deck frames by means of mounting portions which are common to all models in the same class, as recited in claim 4. The deck frames are divided into a plurality of sections (portions) on which different pieces of equipment are mounted, as broadly recited in claim 5.

7. Claims 1-8, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Harrison et al. Harrison et al has all of the structure recited for the one crane being claimed. It has a lower traveling body (12) and an upper rotating body (10) rotatably mounted on the lower traveling body, the upper rotating body including a rotating frame (60) and lifting equipment mounted on the rotating frame, the lifting equipment including a boom (22) and a plurality of types of winches, see column 4, lines 34-39. As discussed above in the rejection under 35 U.S.C. § 112, second paragraph, the claims are drawn to only the crane. Limitations such as the one crane belonging to a family are not given any

Art Unit: 3654

patentable weight, as one crane, not the family, is being claimed. The rotating frame of Harrison et al includes rotating-frame-side winch mounting portions (86 and 88) for mounting the winches on the rotating frame, each type of winch is provided with a winch-side mounting portion, as recited in claim 2, and left and right deck frames, on each side of the mounting portions, as recited in claim 3. Different equipment is mounted on different sections of the left and right deck frames, as recited in claims 4 and 5. The different sections are separately and detachably mounted on the rotating frame, as recited in claims 6 and 8. The sections are differently sized for the different sizes of pieces of equipment mounted thereto, as recited in claim 7.

8. Claims 1-8, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Harrison et al in view of Yokohama. Harrison et al discloses a crane comprising a lower traveling body (12) and an upper rotating body (10) rotatably mounted on the lower traveling body, the upper rotating body including a rotating frame (60) and lifting equipment mounted on the rotating frame, the lifting equipment including a boom (22) and a plurality of types of winches (see column 4, lines 34-39), whereby changing the number of load hoisting drums is considered as defining different models using the same frame. Yokoyama teaches using the same crane body for both a 65-ton class crane and an 80-ton class crane, see column 4, lines 51-59. It would have been obvious to one of ordinary skill at the time the invention was made by applicant to make the crane of Harrison et al in one class of crane using the same components as for a second class of crane, to use common inventory and parts, as taught by Yokoyama. The rotating frame of Harrison et al includes rotating-frame-side winch mounting portions (86 and 88) for mounting the winches on the rotating frame, each type of winch is provided with a winch-side mounting portion, as recited in claim 2, and left and right deck frames, on each side of the mounting portions, as recited in claim 3. Different equipment is mounted on different sections of the left and right deck frames, as recited in claims 4 and 5. The different sections are separately and detachably mounted on the rotating frame, as recited in claims 6 and 8. The sections are differently sized for the different sizes of pieces of equipment mounted thereto, as recited in claim 7.

9. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Braham whose telephone number is (571) 272-6921. The examiner's supervisor, Mr. Peter Cuomo, can be reached at (571) 272-6856.

10. The fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

Art Unit: 3654

about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thomas J. Brahan/
Primary Examiner, Art Unit 3654